

Montana Code Annotated 2015

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TITLE 10. MILITARY AFFAIRS AND DISASTER AND EMERGENCY SERVICES

CHAPTER 4. STATE EMERGENCY TELEPHONE SYSTEM

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10-4-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Allowable costs" means the actual costs associated with upgrading, purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software necessary to comply with federal communications commission orders for the delivery of 9-1-1 calls and data as set forth in 47 CFR 20.18.

(2) "Basic 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(a).

(3) "Basic 9-1-1 service" means a telephone service meeting the standards established in 10-4-103 that automatically connects a person dialing the digits 9-1-1 to an established public safety answering point.

(4) "Basic 9-1-1 system" includes equipment for connecting and outswitching 9-1-1 calls within a telephone central office, trunking facilities from the central office to a public safety answering point, and equipment, as appropriate, that is used for transferring the call to another point, when appropriate, and that is capable of providing basic 9-1-1 service.

(5) "Commercial mobile radio service" means:

(a) a mobile service that is:

(i) provided for profit with the intent of receiving compensation or monetary gain;

(ii) an interconnected service; and

(iii) available to the public or to classes of eligible users so as to be effectively available to a substantial portion of the public; or

(b) a mobile service that is the functional equivalent of a mobile service described in subsection (5)(a).

(6) "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

(7) "Direct dispatch" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, provides for a decision as to the proper action to be taken

and for dispatch of appropriate emergency service units.

(8) "Emergency" means an event that requires dispatch of a public or private safety agency.

(9) "Emergency services" means services provided by a public or private safety agency, including law enforcement, firefighting, ambulance or medical services, and civil defense services.

(10) "Enhanced 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(b).

(11) "Enhanced 9-1-1 service" means telephone service that meets the requirements for basic 9-1-1 service and that consists of selective routing with the capability of automatic number identification and automatic location identification at a public safety answering point enabling users of the public telecommunications system to request emergency services by dialing the digits 9-1-1.

(12) "Enhanced 9-1-1 system" includes customer premises equipment that is directly related to the operation of an enhanced 9-1-1 system, including but not limited to automatic number identification or automatic location identification controllers and display units, printers, and software associated with call detail recording, and that is capable of providing enhanced 9-1-1 service.

(13) "Exchange access services" means:

(a) telephone exchange access lines or channels that provide local access from the premises of a subscriber in this state to the local telecommunications network to effect the transfer of information; and

(b) unless a separate tariff rate is charged for the exchange access lines or channels, any facility or service provided in connection with the services described in subsection (13)(a).

(14) A "9-1-1 jurisdiction" means a group of public or private safety agencies who operate within or are affected by one or more common central office boundaries and who have agreed in writing to jointly plan a 9-1-1 emergency telephone system.

(15) "Per capita basis" means a calculation made according to the most recent decennial census or population estimate compiled by the United States bureau of the census.

(16) "Phase I wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information to the public safety answering point for wireless calls.

(17) "Phase II wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information and location information to the public safety answering point for wireless calls.

(18) "Place of primary use" means the primary business or residential street address location at which an end-use customer's use of the commercial mobile radio service primarily occurs.

(19) "Private safety agency" means any entity, except a public safety agency, providing emergency fire, ambulance, or medical services.

(20) "Provider" means a public utility, a cooperative telephone company, or any other entity that provides telephone exchange access services.

(21) "Public safety agency" means the state and any city, county, city-county consolidated government, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state that provides or has authority to provide emergency services.

(22) "Public safety answering point" means a communications facility operated on a 24-hour basis that first receives 9-1-1 calls from persons in a 9-1-1 service area and that may, as appropriate, directly dispatch public or private safety services or transfer or relay 9-1-1 calls to appropriate public safety agencies.

(23) "Relay" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, notes the pertinent information from the caller and relays

the information to the appropriate public safety agency, other agencies, or other providers of emergency services for dispatch of an emergency unit.

(24) "Subscriber" means an end user who receives telephone exchange access services or who contracts with a wireless provider for commercial mobile radio services.

(25) "Transfer" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, directly transfers the request to an appropriate public safety agency or other provider of emergency services.

(26) "Wireless enhanced 9-1-1" means either phase I wireless enhanced 9-1-1 or phase II wireless enhanced 9-1-1.

(27) "Wireless enhanced 9-1-1 account" means the wireless enhanced 9-1-1 account established in 10-4-301.

(28) "Wireless provider" means an entity, as defined in 35-1-113, that is authorized by the federal communications commission to provide facilities-based commercial mobile radio service within this state.

History: En. Sec. 1, Ch. 635, L. 1985; amd. Sec. 30, Ch. 370, L. 1987; amd. Sec. 46, Ch. 42, L. 1997; amd. Sec. 1, Ch. 448, L. 1997; amd. Sec. 1, Ch. 304, L. 2007; amd. Sec. 15, Ch. 2, L. 2009; amd. Sec. 1, Ch. 316, L. 2013.

10-4-102. Department of administration duties and powers. (1) The department shall assist in the development of basic and enhanced 9-1-1 systems in the state. The department shall:

(a) establish procedures for determining and evaluating requests for variations from basic or enhanced 9-1-1 service;

(b) upon request of a 9-1-1 jurisdiction, assist in planning a basic or enhanced 9-1-1 system;

(c) establish criteria for evaluating basic and enhanced 9-1-1 system plans;

(d) monitor implementation of approved basic and enhanced 9-1-1 system plans for compliance with the plan and use of funding; and

(e) as it finds necessary, report to the legislature the progress made in implementing statewide basic and enhanced 9-1-1 systems and in implementing wireless enhanced 9-1-1 services.

(2) The department shall obtain input from all 9-1-1 jurisdictions by creating an advisory council to participate in development and implementation of the 9-1-1 program in the state. The council must be established pursuant to 2-15-122. The highway patrol, emergency medical services organizations, telephone companies, the associated public safety communicators, the department of emergency services, police departments, sheriff's offices, local citizens, organizations, and other public safety organizations may submit recommendations for membership on the advisory council.

(3) The department may request information from a specific 9-1-1 jurisdiction as determined necessary for the department to fulfill its duties under this chapter. If a 9-1-1 jurisdiction does not comply with the request, the department may suspend distributions to the 9-1-1 jurisdiction as provided in 10-4-302(4).

History: En. Sec. 3, Ch. 635, L. 1985; amd. Sec. 20, Ch. 112, L. 1991; amd. Sec. 16, Ch. 349, L. 1993; amd. Sec. 2, Ch. 448, L. 1997; amd. Sec. 10, Ch. 36, L. 2005; amd. Sec. 2, Ch. 304, L. 2007; amd. Sec. 1, Ch. 111, L. 2009.

10-4-103. Emergency telephone system requirements. (1) Every public and private safety agency in this state may establish or participate in a basic or enhanced 9-1-1 system.

(2) A basic 9-1-1 system must include:

(a) a 24-hour communications facility automatically accessible anywhere in the 9-1-1 jurisdiction's service area by dialing 9-1-1;

(b) direct dispatch of public and private safety services in the 9-1-1 jurisdiction or relay or transfer of 9-1-1 calls to an appropriate public or private safety agency; and

(c) a 24-hour communications facility equipped with at least two trunk-hunting local access circuits provided by the local telephone company's central office.

(3) An enhanced 9-1-1 system must include, in addition to the requirements for a basic 9-1-1 system:

(a) automatic number identification that automatically identifies and displays the calling telephone number at the public safety answering point; and

(b) automatic location identification that automatically identifies and displays the address of the calling telephone at the public safety answering point.

(4) The primary emergency telephone number within the state is 9-1-1, but a public safety answering point shall maintain both a separate seven-digit secondary emergency number for use by the telephone company operator and a separate seven-digit nonemergency number.

History: En. Sec. 2, Ch. 635, L. 1985; amd. Sec. 3, Ch. 448, L. 1997.

10-4-104. Agreements among safety agencies for rendering emergency services. (1) Public or private safety agencies sharing common boundaries may enter into agreements which provide that an emergency unit dispatched by an emergency telephone system established in accordance with 10-4-103 must render emergency services without regard to jurisdictional boundaries.

(2) A public safety agency with jurisdictional responsibilities must in all cases be notified by the public safety answering point of a request for service in the agency's jurisdiction.

History: En. Sec. 7, Ch. 635, L. 1985.

10-4-105 through 10-4-110 reserved.

10-4-111. Submission of preliminary plans for 9-1-1 jurisdictions -- review -- cost estimates. (1) A 9-1-1 jurisdiction may submit a preliminary plan for establishing a basic or enhanced 9-1-1 system in accordance with 10-4-103 to:

(a) public and private safety agencies in the 9-1-1 jurisdiction;

(b) the department; and

(c) providers of telephone service in the 9-1-1 jurisdiction's service area.

(2) The department shall review the preliminary plan for compliance with 10-4-103 and rules adopted pursuant to 10-4-102 and report its approval or disapproval to the 9-1-1 jurisdiction within 90 days of receipt of the plan.

(3) A provider of telephone service in the 9-1-1 jurisdiction's service area shall, within 90 days of receipt of the plan, provide the 9-1-1 jurisdiction with a good faith estimate of the cost to the 9-1-1 jurisdiction for implementing the plan.

History: En. Sec. 4, Ch. 635, L. 1985; amd. Sec. 4, Ch. 448, L. 1997.

10-4-112. Submission and approval of final plans -- exception. (1) A 9-1-1 jurisdiction shall submit a proposed final plan for establishing a basic or enhanced 9-1-1 system pursuant to 10-4-103 within 1 year from receipt of the department's approval of its preliminary plan to:

- (a) public and private safety agencies in the 9-1-1 jurisdiction;
- (b) the department; and
- (c) providers of telephone service in the 9-1-1 jurisdiction's service area.

(2) In addition to other matters required by 10-4-103, the final plan must include a description of all capital and recurring costs for the proposed basic or enhanced 9-1-1 system.

(3) The department shall determine whether the final plan complies with 10-4-103 and rules adopted pursuant to 10-4-102. Subject to 10-4-113, if the department determines that the plan complies, it shall approve the plan, or if the department determines that the plan does not comply, it shall disapprove the plan. The department shall inform the 9-1-1 jurisdiction of its decision within 180 days of receipt of the plan. In any statement approving a final plan, the department shall indicate a timetable in which the provider shall undertake necessary telephone system conversions. The timetable must be such that conversions may not be required unless sufficient funds to compensate the provider for its conversion costs are available within 1 year of the initial installation of the 9-1-1 system.

History: En. Sec. 5, Ch. 635, L. 1985; amd. Sec. 5, Ch. 448, L. 1997.

10-4-113. Requirement for approval of final plan -- department to insure compliance. The department may not approve the preliminary or final plan for basic or enhanced 9-1-1 service within a 9-1-1 jurisdiction unless the plan is accompanied by a written approval from the governing bodies of all participating public and private safety agencies included in the 9-1-1 jurisdiction.

History: En. Sec. 6, Ch. 635, L. 1985; amd. Sec. 6, Ch. 448, L. 1997.

10-4-114. Rulemaking authority. The department may adopt rules to implement the provisions of this chapter. The rules may include but are not limited to:

- (1) establishing procedures to evaluate and make determinations on requests for a variation of the basic or enhanced 9-1-1 service;
- (2) establishing evaluation criteria for basic and enhanced 9-1-1 systems plans;
- (3) establishing requirements for program participation by public and private safety agencies;
- (4) establishing guidelines for the distribution of funds; and
- (5) establishing requirements regarding applications for reimbursement for allowable costs to wireless providers for enabling wireless enhanced 9-1-1 services.

History: En. Sec. 1, Ch. 184, L. 2003; amd. Sec. 3, Ch. 304, L. 2007.

10-4-115. Submission of phase I and phase II wireless notification by wireless provider. (1) A wireless provider must meet the following requirements to be eligible for wireless cost recovery:

(a) Within 30 days of receipt of a formal phase I and phase II request from a public safety answering point, the wireless provider shall submit to the department a notification stating the anticipated date of deployment and the number of subscribers, based on billing addresses, for the 9-1-1 jurisdiction.

(b) The department shall first determine that the wireless provider is providing phase I and phase II functionality to the public safety answering point. The wireless provider is responsible for notifying the department of the date of deployment and proof of acceptance tests.

(2) A 9-1-1 jurisdiction must be ready to provide phase I and phase II wireless service and have

submitted a phase I and phase II wireless request to the wireless providers providing service in the jurisdiction's area.

History: En. Sec. 4, Ch. 304, L. 2007.

10-4-116 through 10-4-120 reserved.

10-4-121. Pay phones to be converted to allow emergency calls without charge. Every provider of telephone service or other owner of a pay station telephone in an area served by an emergency telephone system established pursuant to 10-4-103 must convert every pay station telephone to permit dialing 9-1-1 or the telephone company operator without deposit of a coin or other charge to the caller. Conversion must be completed by or before the time the emergency telephone system is operational.

History: En. Sec. 8, Ch. 635, L. 1985.

10-4-122 through 10-4-124 reserved.

10-4-125. Submission of revised plan for conversion from basic 9-1-1 to enhanced. (1) A jurisdiction intending to implement an enhanced 9-1-1 system shall submit an amended plan for establishing an enhanced 9-1-1 system to:

- (a) every public and private safety agency in the 9-1-1 jurisdiction;
- (b) the department; and
- (c) all providers of telephone service in the 9-1-1 jurisdiction's service area.

(2) The amended plan must include:

- (a) a description of all capital and recurring costs for the proposed enhanced 9-1-1 system;
- (b) the proposed schedule for implementation of the enhanced 9-1-1 system;
- (c) the proposed expenditures for equipment and software upgrades;
- (d) a plan for maintaining all automatic number identification and all automatic location identification databases; and

(e) a plan for 9-1-1 dispatcher training that must include, at a minimum:

- (i) basic telecommunicator certification awarded upon successful completion of the basic telecommunicator class offered through the Montana law enforcement academy;
- (ii) emergency medical dispatch certification awarded upon successful completion of one of the emergency medical dispatch programs that provide dispatch-specific medical training and training and practice in the use of written or automated medical dispatch protocols; or
- (iii) training that includes handling 9-1-1 emergency telephone calls and relaying information to the appropriate responder or dispatch agency.

(3) (a) The department shall determine whether the enhanced 9-1-1 plan complies with the provisions of this part, including rules adopted pursuant to 10-4-102, and shall inform the 9-1-1 jurisdiction of its determination within 180 days of receipt of the plan.

(b) If the department approves an enhanced 9-1-1 plan, the department shall indicate a timetable within which the provider shall undertake necessary conversions to dedicated 9-1-1 circuits. The timetable must be such that conversions may not be required unless sufficient funds to compensate the provider for its conversion costs are available within 1 year of the initial installation of the 9-1-1 system.

(4) If enhanced 9-1-1 service has been included as part of an approved final plan for basic 9-1-1 service, the jurisdiction is not required to submit an amended plan for enhanced 9-1-1 service.

History: En. Sec. 7, Ch. 448, L. 1997.

10-4-126. Dedicated telephone facilities to be provided -- capabilities. 9-1-1, Every provider of telephone service in an area served by an emergency telephone system established pursuant to 10-4-103 shall provide dedicated 9-1-1 telephone facilities capable of providing automatic number identification to the public safety answering point. The provision of facilities and services required under this section must be accomplished according to a plan, including a timetable, approved pursuant to 10-4-111.

History: En. Sec. 8, Ch. 448, L. 1997.

10-4-201. Fees imposed for 9-1-1 services. (1) Except as provided in 10-4-202:

(a) for basic 9-1-1 services, a fee of 25 cents a month per access line on each service subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services;

(b) for enhanced 9-1-1 services, a fee of 25 cents a month per access line on each service subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services; and

(c) for wireless enhanced 9-1-1 services, a fee of 50 cents a month per access line or subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services.

(2) The subscriber paying for exchange access line services is liable for the fees imposed by this section.

(3) The provider shall collect the fees. The amount of the fees collected by the provider is considered payment by the subscriber for that amount of fees.

(4) Any return made by the provider collecting the fees is prima facie evidence of payments by the subscribers of the amount of fees indicated on the return.

History: En. Sec. 9, Ch. 635, L. 1985; amd. Sec. 9, Ch. 448, L. 1997; amd. Sec. 5, Ch. 304, L. 2007.

10-4-202. Exemptions from fees imposed. The fees imposed by 10-4-201 do not apply to:

(1) services that the state is prohibited from taxing under the constitution or laws of the United States or the constitution or laws of the state of Montana; or

(2) amounts paid by depositing coins in a public telephone.

History: En. Sec. 10, Ch. 635, L. 1985; amd. Sec. 10, Ch. 448, L. 1997.

10-4-203. Provider required to maintain record of collections. Every provider responsible for the collection of the fee imposed by 10-4-201 shall keep records, render statements, make returns, and comply with rules adopted by the department of revenue with respect to the fee. Whenever necessary in the judgment of the department of revenue, it may require the provider or subscriber to make returns, render statements, or keep records sufficient to show whether there is liability for the fee.

History: En. Sec. 11, Ch. 635, L. 1985.

10-4-204. Deadlines for filing returns. (1) The provider collecting the fee under 10-4-201 must file a return with the department of revenue on or before the last day of the month following the end of each calendar quarter, reporting the amount of fee due on exchange access line services during the quarter.

Returns are subject to the penalty for false swearing provided in 45-7-202.

(2) When a return of the fee is required, the provider required to make the return shall pay the fee due the department of revenue at the time fixed for filing the return.

(3) The provider shall pay the fee based on the net amount billed for the exchange access service fee during the quarter.

(4) As used in this section, the "net amount billed for the exchange access service fee" equals the gross amount billed for such service, less adjustments for uncollectible accounts, refunds, incorrect billings, and other appropriate adjustments.

History: En. Sec. 12, Ch. 635, L. 1985.

10-4-205. Refund to provider for excess payment of fee. If the amount paid by a provider to the department of revenue exceeds the amount of fee owed, the department of revenue shall refund the amount of the excess payment, with interest on the excess payment at the rate of 0.5% a month or fraction of a month from the date of payment of the excess until the date of the refund. A refund may not be made to a provider who fails to claim the refund within 5 years after the due date for filing of the return with respect to which the claim for refund relates.

History: En. Sec. 13, Ch. 635, L. 1985; amd. Sec. 1, Ch. 229, L. 1993.

10-4-206. Credit for overpayment -- interest on overpayment. (1) If the department of revenue determines that the amount of fee, penalty, or interest paid for any year is more than the amount due, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or the taxpayer's successor through reorganization, merger, or consolidation or to the taxpayer's shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on deficiency assessments from the due date of the return or from the date of overpayment, whichever date is later, to the date the department of revenue approves refunding or crediting of the overpayment.

(3) (a) Interest does not accrue during any period in which the processing of a claim for a refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department of revenue for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1.

(c) Only a payment made incident to a bona fide and orderly discharge of actual tax liability or one reasonably assumed to be imposed by this chapter is considered an overpayment with respect to which interest is allowable.

History: En. Sec. 11, Ch. 676, L. 1991.

10-4-207. Statute of limitations. (1) Except as provided in subsection (3), a deficiency may not be assessed or collected with respect to the year for which a return is filed unless the notice of the additional fee proposed to be assessed is mailed within 5 years from the date the return was filed. For purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the fee,

consents in writing to an assessment after that time, the fee may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim or the department of revenue determines the existence of the overpayment and approves the refund or credit. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department of revenue may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department of revenue.

History: En. Sec. 15, Ch. 676, L. 1991.

10-4-208 through 10-4-210 reserved.

10-4-211. Provider required to hold fee in trust for state -- penalty and interest. (1) Every provider required to collect the fee imposed by 10-4-201 holds it in trust for the state of Montana and for the payment thereof to the department of revenue in the manner and at the time provided by 10-4-204.

(2) (a) If a provider required to collect the fee fails to remit any amount held in trust for the state of Montana or if a subscriber fails to pay the fee on or before the last day of the month following the end of each calendar quarter, the department of revenue shall add to the amount of the delinquent fee, in addition to any other penalty provided by law, a penalty equal to 10% of the delinquent fee plus interest at the rate of 1% a month or fraction of a month computed on the amount of the delinquent fee plus any unpaid penalties and interest. Interest is computed from the date the fee is due until the date of payment.

(b) The department of revenue may waive the penalty if the provider establishes that the failure to pay on time was due to reasonable cause and was not due to neglect.

(3) (a) When a deficiency is determined and the additional fee becomes final, the department of revenue shall mail a notice and demand for payment to the provider. The fee is due and payable at the expiration of 10 days after the notice and demand were mailed. Interest on any deficiency assessment bears interest until paid, at the rate of 1% a month or fraction of a month, computed from the original due date of the return.

(b) If payment is not made within 10 days, the amount of the deficiency is considered delinquent. A 10% penalty must be added to the amount of the deficiency.

(4) The 10% penalty provided for in subsection (3)(b) may be waived by the department of revenue if the provider establishes that the failure to pay the proper amount of fees was due to reasonable cause and was not due to neglect.

(5) The department of revenue may enforce collection by the issuance of a warrant for distraint for the collection of the delinquent amount and all penalties, interest, and collection charges accrued thereon. The warrant is governed by the provisions of Title 15, chapter 1, part 7.

History: En. Sec. 14, Ch. 635, L. 1985; amd. Secs. 1, 19, Ch. 676, L. 1991.

10-4-212. Provider considered a taxpayer under provisions for fee. Unless the context requires otherwise, the provisions of Title 15 referring to the audit and examination of reports and returns, determination of deficiency assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences, appeals to the department of revenue, appeals to the state tax appeal board, and procedures relating thereto apply to this part as if the fee were a tax imposed upon or measured by net income. The provisions apply to the subscriber liable for the fee and to the provider required to collect the fee. Any amount collected and required to be remitted to the department of revenue is considered a tax upon the provider required to collect it, and that provider is considered a taxpayer.

History: En. Sec. 15, Ch. 635, L. 1985; amd. Sec. 19, Ch. 10, L. 1993.

10-4-301. Establishment of emergency telecommunications accounts. (1) There are established in the state special revenue fund in the state treasury:

- (a) an account for all fees collected for basic 9-1-1 services pursuant to 10-4-201(1)(a);
- (b) an account for all fees collected for enhanced 9-1-1 services pursuant to 10-4-201(1)(b); and
- (c) an account for all fees collected for wireless enhanced 9-1-1 services pursuant to 10-4-201(1)(c).

The money is allocated as follows:

- (i) 50% of the account must be deposited in an account for distribution to the 9-1-1 jurisdictions; and
- (ii) 50% of the account must be deposited in an account for distribution to wireless providers.

(2) All money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the appropriate account. An amount equal to 2.74% of the money received pursuant to 10-4-201 must be deposited in an account in the state special revenue fund to be used for the administration of this chapter. Any remaining funds at the end of a fiscal year must be equally distributed to each of the four accounts provided for in subsection (1).

(3) The accounts established in subsection (1) retain interest earned from the investment of money in the accounts.

(4) After payment of refunds pursuant to 10-4-205, the balance of the respective accounts must be used for the purposes described in part 1 of this chapter.

(5) The distribution of funds in the 9-1-1 emergency telecommunications accounts described in subsection (1), as required by 10-4-302, 10-4-311, and 10-4-313, is statutorily appropriated, as provided in 17-7-502, to the department.

(6) Expenditures for actual and necessary expenses required for the efficient administration of the plan must be made from appropriations made for that purpose.

History: En. Sec. 16, Ch. 635, L. 1985; amd. Sec. 2, Ch. 628, L. 1989; amd. Sec. 47, Ch. 42, L. 1997; amd. Sec. 5, Ch. 422, L. 1997; amd. Sec. 11, Ch. 448, L. 1997; amd. Sec. 5, Ch. 389, L. 1999; amd. Sec. 1, Ch. 41, L. 2001; amd. Sec. 6, Ch. 304, L. 2007; amd. Sec. 1, Ch. 110, L. 2009.

10-4-302. Distribution of basic 9-1-1 account by department. (1) The department shall make quarterly distributions of the entire basic 9-1-1 account. The distributions must be made for the costs incurred during the preceding calendar quarter by each provider of telephone service in the state for:

- (a) collection of the fees imposed by 10-4-201;
- (b) modification of central office switching and trunking equipment for emergency telephone service only; and
- (c) conversion of pay station telephones required by 10-4-121.

(2) Payments under subsection (1) may be made only after application by the provider to the

department for costs incurred in subsection (1). The department shall review all applications relevant to subsection (1) for appropriateness of costs claimed by the provider. If the provider contests the review, payment may not be made until the amount owed the provider is made certain.

(3) After all amounts under subsections (1) and (2) have been paid, the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account. A 9-1-1 jurisdiction whose 9-1-1 service area includes more than one city or county is eligible to receive operating funds from the allocation for each city or county involved. The department shall distribute to the accounting entity designated by a 9-1-1 jurisdiction with an approved final plan the proportional amount for each city or county served by the 9-1-1 jurisdiction. The department shall provide a report indicating the proportional share derived from the individual city's or county's allocation with each distribution to a 9-1-1 jurisdiction.

(4) If the department through its monitoring process determines that a 9-1-1 jurisdiction is not adhering to an approved plan, is not using funds in the manner prescribed in 10-4-303, or has failed to provide information as provided in 10-4-102(3), the department may, after notice and hearing, suspend payment to the 9-1-1 jurisdiction. The jurisdiction is not eligible to receive funds until the department determines that the jurisdiction is complying with the approved plan and fund usage limitations or has provided the requested information.

History: En. Sec. 17, Ch. 635, L. 1985; amd. Sec. 1, Ch. 153, L. 1991; amd. Sec. 6, Ch. 422, L. 1997; amd. Sec. 12, Ch. 448, L. 1997; amd. Sec. 2, Ch. 111, L. 2009.

10-4-303. Limitation on use of basic 9-1-1 funds. Money received under subsection (3) of 10-4-302 may be used only to pay for installing, operating, and improving a basic 9-1-1 emergency telephone system. Money not necessary for immediate use may be invested by the city or county. The income from the investments may be used only for the purposes described in this section.

History: En. Sec. 18, Ch. 635, L. 1985; amd. Sec. 13, Ch. 448, L. 1997.

10-4-304 through 10-4-310 reserved.

10-4-311. Distribution of enhanced 9-1-1 account by department. (1) The department shall make quarterly distributions of the entire enhanced 9-1-1 account for costs incurred during the preceding calendar quarter by each provider of telephone service in the state for:

(a) collection of the fee imposed by 10-4-201(1)(b); and
(b) modification of central office switching and trunking equipment necessary to provide service for an enhanced 9-1-1 system only.

(2) Payments under subsection (1) may be made only after application by the provider to the department for costs described in subsection (1). The department shall review all applications relevant to subsection (1) for appropriateness of costs claimed by the provider. If the provider contests the review, payment may not be made until the amount owed the provider is made certain.

(3) After all amounts under subsections (1) and (2) have been paid, 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(4) An enhanced 9-1-1 jurisdiction whose enhanced 9-1-1 service area includes more than one city or county is eligible to receive operating funds from the allocation for each city or county involved. The department shall distribute to the accounting entity designated by an enhanced 9-1-1 jurisdiction with

an approved final plan for enhanced 9-1-1 service the proportional amount for each city or county served by the enhanced 9-1-1 jurisdiction. The department shall, upon request, provide a report indicating the proportional share derived from the individual city's or county's allocation with each distribution to a 9-1-1 jurisdiction.

(5) If the department determines that an enhanced 9-1-1 jurisdiction is not adhering to an approved plan for enhanced 9-1-1 service or is not using funds in the manner prescribed in 10-4-312, the department may, after giving notice to the jurisdiction and providing an opportunity for a representative of the jurisdiction to comment on the department's determination, suspend payment from the enhanced 9-1-1 account to the 9-1-1 jurisdiction. The jurisdiction is not eligible to receive funds from the enhanced 9-1-1 account until the department determines that the jurisdiction is complying with the approved plan for enhanced 9-1-1 and fund usage limitations.

History: En. Sec. 14, Ch. 448, L. 1997; amd. Sec. 6, Ch. 389, L. 1999; amd. Sec. 4, Ch. 19, L. 2011.

10-4-312. Limitation on use of enhanced 9-1-1 funds. (1) Money received under 10-4-311(3) or (4) may be used only to pay for installing enhanced 9-1-1 features or for operating and improving an emergency telephone system using 9-1-1 service once the plan for converting to enhanced 9-1-1 has been approved.

(2) With department approval, money received under 10-4-311(3) or (4) may be used to pay for basic 9-1-1 service. The 9-1-1 jurisdiction shall submit a request for an exception under this subsection to the department based on a demonstrated hardship, including geographical constraints, funding limitations, or absence of technical capability or capacity.

(3) Money not necessary for immediate use may be invested by the city or county. The income from the investments may be used only for the purposes described in this section.

History: En. Sec. 15, Ch. 448, L. 1997.

10-4-313. Distribution of wireless enhanced 9-1-1 account by department. (1) Except as provided in subsection (2), the department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account for allowable costs described in 10-4-301(1)(c)(ii) incurred by each wireless provider in each 9-1-1 jurisdiction as follows:

(a) For each fiscal year through the fiscal year ending June 30, 2019:

(i) 84% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. The wireless provider in each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections (1)(a)(i) and (1)(a)(ii) must be adjusted to ensure that a wireless provider does not receive less than the amount allocated to wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state.

(b) For fiscal years beginning after June 30, 2019, 100% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. Each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(c) If the department is unable to fully reimburse a wireless provider under subsection (1)(a) in any

quarter, the department shall in the subsequent quarter pay from the allocation under subsection (1)(a) to wireless providers any unpaid balances from the previous quarter. If the amount available is insufficient to pay all previous unpaid balances, the department shall repeat the process of paying unpaid balances that remain unpaid for as many quarters as necessary until all unpaid balances are fully paid. The department shall review all invoices for appropriateness of costs claimed by the wireless provider. If the wireless provider contests the review, payment may not be made until the amount owed to the wireless provider is determined.

(d) A wireless provider shall submit an invoice for cost recovery according to the allowable costs.

(e) The department shall determine the percentage of overall subscribers, based on billing addresses, within the 9-1-1 jurisdiction for each wireless provider seeking cost recovery by dividing the wireless provider's subscribers by the total number of subscribers in that 9-1-1 jurisdiction. The percentage must be applied to the total wireless provider funds for that 9-1-1 jurisdiction, and each wireless provider shall receive distribution based on the provider's percentage. To receive cost recovery, wireless providers shall submit subscriber counts to the department on a quarterly basis. The subscriber count must be provided for each 9-1-1 jurisdiction in which the wireless provider receives cost recovery within 30 calendar days following the end of each quarter. The department shall recalculate distribution percentages on a quarterly basis.

(f) If the department determines that a wireless provider has submitted costs that exceed allowable costs or are not submitted in the manner prescribed in 10-4-115, the department may, after giving notice to the wireless provider, suspend or withhold payment from the wireless enhanced 9-1-1 account.

(2) (a) Except as provided in subsection (3) and after the distribution for the final quarter of each fiscal year is made pursuant to subsection (1), the department, within 45 days of the end of the final quarter of each fiscal year, shall:

(i) determine an amount equal to 50% of the total balance included in the account under 10-4-301(1)(c)(ii); and

(ii) except as provided in subsection (2)(b), distribute the amount determined in accordance with subsection (2)(a)(i) to wireless providers to reimburse the unpaid balances carried over by wireless providers pursuant to subsection (1)(c).

(b) If the amount determined pursuant to subsection (2)(a)(i) is insufficient to reimburse all wireless providers in full in accordance with subsection (2)(a)(ii), the department shall proportionately, based on outstanding balances, distribute the money to each wireless provider that has an unpaid balance carried over pursuant to subsection (1)(c).

(3) Funds may not be reallocated in accordance with subsection (2) if the county contains less than 1% of the state population.

(4) Any reallocated funds not distributed in accordance with subsection (2) must be returned to the account established under 10-4-301(1)(c).

(5) The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account described in 10-4-301(1)(c)(i) to each 9-1-1 jurisdiction as follows:

(a) for each fiscal year through the fiscal year ending June 30, 2019:

(i) 84% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the counties with 1% or less than 1% of the

total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections (5)(a)(i) and (5)(a)(ii) must be adjusted to ensure that a county does not receive less than the amount allocated to counties with 1% or less of the total population of the state; and

(b) for fiscal years beginning after June 30, 2019, 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

History: En. Sec. 7, Ch. 304, L. 2007; amd. Sec. 3, Ch. 111, L. 2009; amd. Sec. 1, Ch. 2, L. 2011; amd. Sec. 5, Ch. 19, L. 2011; amd. Sec. 2, Ch. 316, L. 2013; amd. Sec. 1, Ch. 35, L. 2015.